BILL NO. S-83-01-07

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SPECIAL ORDINANCE NO. S-23-83

AN ORDINANCE approving Street Improvement Resolution No. 5953-82, Resurfacing in Second and Fourth Councilmanic District, with Wayne Asphalt & Construction Company, in connection with the Board of Public Works.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That a certain Contract dated December 8, 1982, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and Wayne Asphalt & Construction Company, for:

the resurfacing and restoring pavement as designated on the following streets: (1) Hiawatha Boulevard - from the north pavement line of Engle Road to its northeasterly terminus; (2) Meda Pass - from the north pavement line of Engle Road to the south curb line of Ojibway Trail; (3) Algonquin Pass - from the northwest curb line of Wawonaissa Trail to the southeast curb line of Hiawatha Boulevard; (4) Wendigo Lane - from the northwest curb line of Hiawatha Boulevard to the east curb line of Wenonah Lane; (5) Indian Village Boulevard - from the southeast curb line of Wawonaissa Trail to the northwest curb line of Nokomis Road; (6) Wenonah Lane - from the north curb line of Engle Road to the south curb line of Ojibway Trail; (7) Nokomis Road - from the east curb line of Wawonaissa Trail to the southwest curb line of Opechee Way; (8) Huestis Avenue - from the west curb line of Thompson Avenue to its western terminus; (9) Brown Street - from the east property line of Frary Avenue to its western terminus; (10) Eby Avenue - from the west curb line of Brooklyn Avenue to the west property line of Bevel Avenue; (11) Ontario Circle - from the south curb line (12) Scott Avenue - from the west curb line of Broadway to the east curb line of Thompson

of Ontario Avenue (as platted west) to Ontario Avenue (as platted east);

Avenue;

(13) Maple Avenue - from the west curb line of Broadway to the east curb line of Thompson Avenue;

(14) Fay Drive - from the west property line of Lot #8 (house #1331) Fay Place Extended to the west one-half of Lot #13 (house #1311) Fay Place Extended;

31 32

| 1 | (15) State Boulevard - from the east property |
|----|--|
| 2 | line of Parnell to the east property line of Woodward Avenue; |
| 3 | (16) Delaware Avenue - from the east curb line of St. Joe Boulevard to the east property |
| 4 | line of Alabama Avenue; (17) Kentucky Avenue - from the north curb |
| 5 | line of Tennessee Avenue to the south curb line of State Boulevard; |
| 6 | (18) Forest Avenue - from the east curb line of Kentucky Avenue to the west curb |
| 7 | line of Randallia Drive; (19) East Drive - from the north curb |
| 8 | line of Dodge Avenue to the south curb |
| | line of Curdes Avenue; (20) Curdes Avenue - from the southeast curb |
| 9 | line of Crescent Avenue to the west pavement line of Carew Street; |
| 10 | (21) Florida Drive - from the southeast curb |
| 11 | line of Crescent Avenue to the north curb line of State Boulevard; |
| | (22) Buena Vista - from the north curb |
| 12 | line of Dodge Avenue to the southeast curb |
| 13 | line of Lawndale Drive; (23) Glenwood Avenue - from the east curb |
| 14 | line of Rolston Street to the West curb |
| 14 | line of Beacon Street; (24) Dodge Avenue - from the east pavement |
| 15 | line of Kentucky Avenue to the northwest curb |
| 16 | line of Crescent Avenue; (25) Curdes Avenue - from the west curb line |
| | of Santa Rosa Drive to its Western terminus: |
| 17 | (26) Dodge Avenue - from the west pavement |
| 18 | line of Santa Rosa Drive to a point 350 feet west thereof; |
| | (27) Charlotte Avenue - from the west curb |
| 19 | line of Santa Rosa Drive to a point 355 feet west thereof; |
| 20 | (28) Santa Rosa Drive - from the north |
| 21 | property line of the first lot north of Lynn |
| 71 | Avenue to the south pavement line of Kenwood Avenue; |
| 22 | (29) Dover Drive - from the east curb line of |
| 23 | Sherborne Boulevard to a point 50 feet east of Bosworth Drive; and |
| | (30) Freeman Street - from the south pavement |
| 24 | line of Taylor Street to the north pavement line of Covington Road. |
| 25 | Time of coving con Road. |
| 26 | under Board of Works Street Improvement Resolution No. 5953-82, |
| 27 | involving a total cost of Five Hundred Eighty-Nine Thousand Five |
| 28 | Hundred Eighty-Two and 25/100 Dollars (\$589,582.25), all as |
| | more particularly set forth in said Resolution and Contract, and |
| 30 | which is on file with the Office of the Board of Public Works |

and is, by reference, incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed, and approved. Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law. SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor. 1 Talanco APPROVED AS TO FORM AND LEGALITY THIS tothe DAY OF JANUARY, 1983. Boxberger, City Attorney Bruce O.

| Read the fine seconded by by title and replan Commission due legal notice Indiana, on | for recommend a, at the Cour | committee dation) and F | Public Hearings, City-County | to be he | econd time (and the City |
|---|---------------------------------|-------------------------|------------------------------|------------------------|-----------------------------|
| DATE: | 1-11-8 | , 19, at_ | Church | ull Tu | M.,E.S.T. |
| Read the the seconded by passage. PASSED | nird time in (LOST) by | uesla, | and duly add | Jalene opted, place | ced on its |
| | AYES | NAYS | ABSTAINED | ABSENT | TO-WIT: |
| TOTAL VOTES | 9 | D | | | |
| BRADBURY | X, | | | - | |
| BURNS | X | | | | |
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| DATE: | 1-25-8 | 3 | CHARLES W. W | W. Jeles ESTERMAN - | Mornay |
| Passed and | adopted by th | e Common Cou | ncil of the C | ity of For | t Wayne, |
| Indiana, as (ZON | ING MAP) (G | ENERAL) (ANI | NEXATION) (| SPEGIAL) | |
| (APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-23-83 | | | | | |
| on the |) the day | of f | anuau | 1 | , 19 83. |
| | ATTEST: | . / | (SEAL) | | |
| CHARLES W. WESTE | 1. Wester | imai LERK | PRESIDING OF | FICER | borf |
| Presented by | y me to the M | ayor of the | City of Fort | Wayne, Ind | iana, on |
| the | day of | Lanuare | 1 , 19 8- | | |
| | | | CHARLES W. WI | M. Welss ESTERMAN - | CITY CLERK |
| | d signed by me | | | | |
| 19 83 , at the 1 | nour of | . <u> </u> | k T .M. | E.S.V. | |
| | | | Chief. | 20 | |
| | | | WIN MOSES . N | - MAYOR | |

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72-156-30. SUBJECT TO COUNCILMANIC APPROVAL PRELIMINARY MEETING 1-11-83
RATIFICATION 1-25-83

CONTRACT

| by and between | WAYNE ASPHALT & CONSTRUCTION CO., INC | |
|--|---|---|
| 6600 Ardmore | Avenue, Fort Wayne, Indiana 46809 | |
| after called "City," under and by vientitled "An Act Concerning Munard supplementary acts thereto, Wiener and Supplementary acts thereto, Wiener and Supplement Resolution No. 5 | the City of Fort Wayne, Indiana, a municipal corretue of an act of the General Assembly of the Scicipal Corporations," approved March 6, 1905, and ITNESSETH: That the Contractor covenants are 5953-82 Districts - 1982 Asphalt Resurfacing (Mu | tate of Indiana, all amendatory and agrees to im- |
| See attached Improvement Res | solution for detailed list of streets. | |
| | | |
| | | |
| | | |
| | to a width of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX | |
| | as fully set out in the specifications hereinafter r | |
| nent Resolution No. 5953-82 XXX | to the entire satisfaction of said City, in accordance ached hereto and by reference made a par | |
| At the following prices: | | |
| Pavement Removal | One dollar and thirty cents per square yard | 1.30 |
| H.A.C. #9 Binder | Nineteen dollars and fifty-five cents per ton | 19.55 |
| H.A.C. #11 Binder | Twenty-two dollars and fifty-five cents per ton | 22.55 |
| H.A.C. "B" Surface | Twenty-three dollars and no cents per ton | 23.00 |
| H.A.C. A-2 Surface | Twenty-three dollars and seventy cents per ton | 23.70 |
| Joint and Crack Sealer | Three hundred and eighty dollars and no cents per ton | 380.00 |
| Catch basins - Adjust and Set to Grade | One hundred and fifteen dollars and no cents per each | 115.00 |
| Manholes - Adjust and Set to Grade | One hundred and fifteen dollars and no cents per each | 115.00 |
| Set to Grade | | |
| Water Valves - Adjust and set to Grade | Forty-five dollars and no cents per each | 45.00 |
| Water Valves - Adjust and | | 45.00 1,025.00 |

| Contract | for | Improvement | Resolution | No. | 5953-82 | |
|-----------|-----|-------------|------------|-----|---------|--|
| Continued | | | | | | |

| Type III Curb | Eight dollars and fifty cents per lineal foot | 8.50 |
|--|--|--------------|
| Type I-B Curb | Eight dollars and fifty cents per lineal foot | 8.50 |
| #53 Crushed Stone (Rolled & Compacted) | Eight dollars and fifty cents per ton | 8.50 |
| A-E 150 | Two hundred and fifty dollars and no cents per ton | 250.00 |
| TOTAL | Five hundred and eighty-nine thousand, five hundred and eighty-two dollars and twenty-five cents | \$589,582.25 |
| | | |

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

F

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5953-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

| successors and assigns. | d |
|--------------------------------------|--|
| IN WITNESS WHEREOF, we the foregoing | named parties hereunto set our hands this |
| day of <u>yes</u> ., 1982 | Constant Control of the Control of t |
| ATTEST: | WAYNE ASPHALT & GONSTRUCTION CO., INC. |
| Cd Lown | BY: Chris Come |
| Corporate Secretary | TTS: DARVIN D. TOMES SALES MGR. |
| | Contractor, Party of the First Part. |
| City of Fort Wayne, By and Through: | |
| Miss fall | ATTEST: |
| Robander Nat | Sauled & Kennedy |
| Bu RAP. | Secretary and Clerk |

Its Board of Public Works and Mayor.

PERFORMANCE AND GUARANTEE BOND

INC.

| KNOW ALL MEN BY THESE PRESENTS, that we WAYNE ASPHALT & CONSTRUCTION CO., IN |
|--|
| as Principal, and the United States Fidelity & Juanate 6. |
| , a corporation organized under the laws of the |
| State of Muchand, and duly authorized to transact business in the |
| State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, |
| Indiana, an Indiana Municipal Corporation in the sum of FIVE HUNDRED AND EIGHTY-NINE THOUSAND, FIVE HUNDRED AND EIGHTY-TWO DOLLARS AND TWENTY-FIVE CENTS |
| (\$ 589,582.25), for the payment whereof well and truly to be made, |
| the Principal and Surety bind themselves, their heirs, executors, administrators, |
| successors and assigns, jointly and severally, firmly by these presents. The |
| condition of the above obligation is such that |
| WHEREAS, the Principal did on the 8 day of Verember, 1982, |
| enter into a contract with the City of Fort Wayne to construct |
| enter into a contract with the City of Fort wayne to construct |
| Improvement Resolution No. 5953-82 |

To improve the 2nd and 4th Councilmanic Districts - 1982 Asphalt Resurfacing (Municipal Bonds - 1982).

See attached Improvement Resolution for detailed list of streets.

at a cost of \$ 589,582.25-----, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

- That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
- There shall be filed with the City, within thirty (30) days after comple-2. tion, a Completion Affidavit;
- Said Principal is required to agree to make such adjustments, modifica-3. tions, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

WAYNE ASPHALT & CONSTRUCTION COMPANY, INC.

(Contractor)

BY: Claum

ITS: DARVIN D. TOMES, SALES MGR.

ATTEST:

(Title)

Surety

BY: As

Authorized Agent (Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

PAYMENT BOND

| KNOW ALL MEN BY THESE PRESENTS: that |
|---|
| WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC |
| (Name of Contractor) |
| 6600 Ardmore Avenue, Fort Wayne, Indiana 46809 |
| (Address) |
| a, hereinafter called Principal, (Corporation, Partnership or Individual) |
| and Tended States Fidelity & Guaranty Co. (Name of Surety) |
| and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FIVE HUNDRED AND EIGHTY-NINE THOUSAND, FIVE HUNDRED AND EIGHTY-TWO DOLLARS AND TWENTY-FIVE CENTS |
| THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the day of, 19 \(\frac{1}{2} \), for the construction of: |
| Improvement Resolution No. 5953-82 |
| To improve the 2nd and 4th Councilmanic Districts - 1982 Asphalt Resurfacing (Municipal Bonds - 1982). |
| See attached Improvement Resolution for detailed list of streets. |

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

| work, and all insurance premiums on said such work whether by subconstructor or o void; otherwise to remain in full force and | therwise, then this obligation shall be |
|---|--|
| IN WITNESS WHEREOF, this instrument is | executed in counter- |
| parts, each one of which shall be deem | (number) / |
| (SEAL) | |
| ATTEST: | WAYNE ASPHALT AND CONSTRUCTION CO., INC. |
| | Principal By Man De S |
| (Principal) Secretary | |
| | DARVIN D. TOMES, SALES MGR. (Title) |
| | (Address) |
| Witness as to Principal | |
| (Address) | |
| | Surety BY Koncel Shirley Attorney-in-Fact (Authorized Agent) |
| Witness as to Surety | (Address) |
| 0,000 | (Address) |
| (Address) | |
| | |

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, sonsumed on used in sonnection with the

ment and tools, consumed or used in connection with the construction of such

IMPROVEMENT RESOLUTION

FOR STREETS

NO. 5953 - 1982

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, that it is deemed necessary to improve by resurfacing and restoring pavement as designated on the following streets to be known as:

- 1. HIAWATHA BLVD. From the north pavement line of Engle Road to its northeasterly terminus.
- 2. MEDA PASS From the north pavement line of Engle Road to the south curb line of Ojibway Trail.
- 3. ALGONQUIN PASS From the northwest curb line of Wawonaissa Trail to the southeast curb line of Hiawatha Blvd.
- 4. WENDIGO LANE From the northwest curb line of Hiawatha Blvd. to the east curb line of Wenonah Lane.
- 5. INDIAN VILLAGE BLVD. From the southeast curb line of Wawonaissa Trail to the north-west curb line of Nokomis Road.
- 6. WENONAH LANE From the north curb line of Engle Road to the south curb line of Ojibway Trail.
- 7. NOKOMIS ROAD From the east curb line of Wawonaissa Trail to the southwest curb line of Opechee Way.
- 8. HUESTIS AVENUE From the west curb line of Thompson Avenue to its western terminus.
- 9. BROWN STREET From the east property line of Frary Avenue to its western terminus.
- 10. EBY AVENUE From the west curb line of Brooklyn Avenue to the west property line of Bevel Avenue.
- 11. ONTARIO CIRCLE From the south curb line of Ontario Avenue (as platted west) to Ontario Avenue (as platted east).
- 12. SCOTT AVENUE From the west curb line of Broadway to the east curb line of Thompson Avenue.
- 13. MAPLE AVENUE From the west curb line of Broadway to the east curb line of Thompson Avenue.
- 14. FAY DRIVE From the west property line of Lot #8 (house #1331) Fay Place Ext. to the west one-half of Lot #13 (house #1311) Fay Place Ext.
- 15. STATE BLVD. From the east property line of Parnell to the east property line of Woodward Avenue
- 16. <u>DELAWARE AVE</u>. From the east curb line of St. Joe Blvd. to the east property line of Alabama Avenue.
- 17. KENTUCKY AVE. From the north curb line of Tennessee Avenue to the south curb line of State Blvd.
- 18. FOREST AVE. From the east curb line of Kentucky Avenue to the west curb line of Randallia Drive.
- 19. EAST DRIVE From the north curb line of Dodge Avenue to the south curb line of Curdes Avenue.
- 20. CURDES AVE. From the southeast curb line of Crescent Avenue to the west pavement line of Carew Street.
- 21. FLORIDA DR. From the southeast curb line of Crescent Avenue to the north curb line of State Blvd.

- 1982
- 22. BUENA VISTA From the north curb line of Dodge Avenue to the southeast curb line of Lawndale Drive.
- 23. GLENWOOD AVENUE From the east curb line of Rolston Street to the west curb line of Beacon Street.
- 24. <u>DODGE AVENUE</u> From the east pavement line of Kentucky Avenue to the northwest curb line of Crescent Avenue.
- 25. CURDES AVENUE From the west curb line of Santa Rosa Drive to its western terminus.
- 26. <u>DODGE AVENUE</u> From the west pavement line of Santa Rosa to a point 350 feet west thereof.
- 27. CHARLOTTE AVENUE From the west curb line of Santa Rosa Drive to a point 355 feet west thereof.
- 28. SANTA ROSA DRIVE From the north property line of the first lot north of Lynn Ave. to the south pavement line of Kenwood Avenue.
- 29. <u>DOVER DRIVE</u> From the east curb line of Sherborne Blvd. to a point 50 feet east of Bosworth Drive.
- 30. FREEMAN ST. From the south pavement line of Taylor Street to the north pavement line of Covington Road.

with Hot Asphalt Binder (as per design mix formula) with Hot Asphalt Top Surface (as per design mix formula)

All in accordance with the specifications on file in the office of the Department of Public Works of said City; and such improvement is now ordered.

It is hereby found by said Board of Public Works that all benefits accruing hereunder will be to the general public of the City of Fort Wayne and that no special benefits will accrue to any property owner adjoining said improvement or otherwise assessable under said improvement. The cost of said improvement shall be paid from monies appropriated from the General Obligation Bonds and designated as "Municipal Bonds - 1982."

| BILL NO |
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| |
| REPORT OF THE COMMITTEE ON PUBLIC WORKS |
| WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED A |
| |
| ORDINANCE approving Street Improvement Resolution No. 5953-82, |
| Resurfacing in Second and Fourth Councilmanic District, with Wayr |
| Asphalt & Construction Company, in connection with the Board of |
| Public Works |
| |
| (PRIOR APPROVAL) |
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| |
| HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS. SAMUEL J. TALARICO, CHAIRMAN Samuel Jalanus |
| VICTURE L. SCRUGGS, VICE CHAIRMAN (//Cture L) |
| MARK E. GiaQUINTA |
| PAUL M. BURNS |
| ROY J. SCHOMBURG |
| 1-21-83 CONCURRED IN |
| DATECHARLES W. WESTERMAN, CITY CL |

| TITLE OF ORDINANCE Contract fo | or Res. 5953-82, Resurfacing in 2nd & 4th District. |
|--|---|
| DEPARTMENT REQUESTING ORDINANCE | |
| Cinionana | th Wayne Asphalt & Construction Co., Inc., for |
| Res. #5953-82, 2nd & 4th Coun | cilmanic Districts - 1982 Asphalt Resurfacing. |
| See attached Improvement Reso | lution for detailed list of streets. |
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| | |
| Prior approval received Septem | nber 21, 1982: |
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| EFFECT OF PASSAGE Improvement of | asphalt in 2-1 c 441 c |
| The same of the sa | asphalt in 2nd & 4th Councilmanic District. |
| | |
| EFFECT OF NON-PASSAGE | |
| TABOAGE | |
| | |
| MONEY INVOLVED (DIRECT COCTO | |
| MONEY INVOLVED (DIRECT COSTS, EXPENDITE | JRE, SAVINGS) \$589,582.25 |
| ASSIGNED TO CONCE | |
| ASSIGNED TO COMMITTEE | |
| | |